

## MINUTES

### **SPECIAL COMMITTEE OF THE WHOLE**

September 5, 2013

A Special meeting of the Committee of the Whole of the Council of the County of Kaua'i, State of Hawai'i, was called to order by Jay Furfaro, Chair at the Council Chambers, 4396 Rice Street, Suite 201, Lihu'e, Kaua'i, on Thursday, September 5, 2013, at 9:04 a.m., after which the following members answered the call of the roll:

Honorable Tim Bynum  
Honorable Gary L. Hooser  
Honorable Nadine K. Nakamura  
Honorable Mel Rapozo  
Honorable JoAnn A. Yukimura (*present at 9:33 a.m.*)  
Honorable Jay Furfaro

Excused: Honorable Ross Kagawa

Chair Furfaro: This Committee of the Whole Meeting, I would like to actually read the item for this morning if I could. So, let me get the County Attorney up first and have him read it. Mauna Kea, is that you this morning or is it Al? Good morning young man.

MAUNA KEA TRASK, Deputy County Attorney: Good morning,  
Chair. Thank you, honorable Councilmembers.

#### EXECUTIVE SESSION:

ES-661 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), on behalf of the Council, the Office of the County Attorney requests an Executive Session with the Council, to provide the Council with a briefing on Bill No. 2491 relating to pesticides and Genetically Modified Organisms and related matters, to provide a legal framework and address questions related to the enactment and implementation of Bill No. 2491. This briefing and consultation involves consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item.

Chair Furfaro: Thank you very much. I would like to note also for the record that Councilmember Kagawa will be absent today. Councilmember Yukimura will be about thirty (30) minutes late. I would like the record to reflect that we have five (5) members which does constitute a quorum to go into Executive Session. Now, on that note, I will be asking and taking a vote to go into Executive Session, but under our rules and public comment on the item so read, we will give up to eighteen (18) minutes in three (3) minute increments for people to speak. There will be no questions & answers (Q&A) from the Council under Rule

13(e). We have six (6) members from the public that have signed up. Then, under Section (b), under the regular rules, there is an allowed Q&A session for people to give testimony of which the Council can interact with them for questions. I believe we have six (6) signed up for the Rules 13(e) Section and we have one (1) for public comment. Am I correct?

Clerk:

Yes.

PUBLIC COMMENT:

Pursuant to Council Rule 13(e), members of the public shall be allowed a total of eighteen (18) minutes on a first come, first served basis to speak on any agenda item. Each speaker shall be limited to three (3) minutes at the discretion of the Chair to discuss the agenda item and shall not be allowed additional time to speak during the meeting. This rule is designed to accommodate those who cannot be present throughout the meeting to speak when the agenda items are heard. After the conclusion of the eighteen (18) minutes, other members of the public shall be allowed to speak pursuant to Council Rule 12(e).

Chair Furfaro: Thank you. So, on that note, under Rule 13(e) the individuals that would like to give three (3) minutes of testimony without any Q&A, may I call for the first speaker?

KATHY HASKINS: Good morning, Councilmembers. My name is Kathy Haskins and I am here as a private citizen from Kekaha. There is some terminology in this Bill that I am unfamiliar with. For example, experimental Genetically Modified Organism (GMO). I have been a scientist for more years than I would like to admit and I have never heard this term until I read this Bill. There are Genetically Modified (GM) traits not yet sold commercially. These are regulated Genetically Modified Organisms and have been through extensive research and testing prior to receiving Federal and State approval for shipping to and growing in very specific places. Those crops are further regulated by the United States Department of Agriculture (USDA) and Hawai'i Department of Agriculture (HDOA) throughout their growth cycle and beyond. More of what seed companies do is breed native and deregulated GM traits into the newest varieties of corn or whatever crop and plant the progeny seed out at greater and greater in order to make enough seed to sell to farmers. No one forces farmers to buy GM seed, non-GM seed is available, and is less expensive. Many farmers choose to buy GM seed because they report greater yield without less pesticide and less tillage of the land. In other words, they make more money. I have heard some members of the community and even some of the Councilmembers say that Kaua'i seed farmers do not produce a product. Well, I say seed is a product and it is the heart of farming. I heard testimony July 31, 2013 suggesting that this Bill could not put these multi-million dollar corporations out of business and I agree. But I believe these companies would cease to operate on Kaua'i and would move to a more business-friendly State. That would mean many more dollars per year that are currently spent on Kaua'i would be spent elsewhere. The Westside economy would

clasp and the entire island's economy would be impacted. The Westside unemployment rate would increase far above its current four percent (4%). The Westside real estate market could clearly be devalued. Those of us that lose our jobs would not be able to sell our homes or worse yet go into foreclose. So, Mr. Hooser as Chair of the Economic Development Committee, how do you plan to mitigate that collateral damage? I have heard this Bill is jobs versus health. I do not believe that is true. It appears to be pointed at a small sector of corporate jobs. The technical report pesticide exposure in children that was referenced a number of times in previous testimony suggests that the greatest risk of exposure in children is in their homes and in their fresh food supply. Why would the County so pointedly regulate specific agricultural pesticide applications which are already highly regulated when organic farming and residential pesticide use are not included in this regulation and not otherwise regulated by government entity particularly, when such regulation would speak so clearly to the pesticide exposure in the home and the fresh food supply? Finally, I heard a gentleman from Big Island testify on August 5, 2013, that he went to live in the forest to understand sustainability and that is great if that is how he wants to live. We should all as Americans to have the choice to live the way we want as long as it is lawful. I do not want to live in the forest. I do not want to live off the land. I do not want to produce all of my own food...

Clerk:

Three (3) minutes.

Ms. Haskins: ...and none for any of the people starving around the world. I would like to ask that you kill this Bill...

Chair Furfaro: Kathy, that is your three (3) minutes. If you could summarize please.

Ms. Haskins: I have one (1) more sentence. I would like to ask that you kill this Bill and let us work together for co-existence. Thank you.

Chair Furfaro: Thank you. I believe it is Susan. Please for those of you that testify, I have said this in the four (4) years I have been the Council Chair, please direct your testimony to the body. We function as a group. Please keep comments directed at individual Councilmembers to a minimum. You are addressing the body of the Council, please.

SUSAN TAI KANEKO: Thank you. Good morning Council Chair, Vice Chair, and Councilmembers. My name is Susan Tai Kaneko and I speak on behalf of myself as citizen and officially I oppose Bill No. 2491. I have been tracking the Bill of course since its introduction in June and I ask you to vote down this Bill because of how unstable and poorly thought out it is proven to be. This Bill started out as you Article 22, Relating to Pesticides and GMOs and I come to see at the August 5, 2013 Council Meeting that in fact it is not about GMOs, only about pesticides. It is a public health and safety issue about pesticides. But it is not

about all pesticides, just those used by four (4) specific seed companies and Kaua'i Coffee and to me, that is discrimination. It is really unfounded. But then, wait, it seems that Kaua'i Coffee is falling off the radar, as it should, as the other four (4) companies should unless you plan to bring all pesticides and all users and bring them under the microscope and evaluate that if this truly a public health and safety issue. Bring together the small farmers, the landscapers, the County, the State, hotels, exterminators, schools, and hospitals, and the list can go on. After all, a pesticide is a pesticide is a pesticide and we should evaluate that. But then the shift went from it is a public health and safety issue to no, now at its core, it is a Right to Know Bill. But it is not a Right to Know for all users and pesticides, just five (5) companies, or four (4), or five (5). The Bill cannot keep it straight. This Bill does not ask all users to disclose, to open its books, to be transparent, just five (5) or four (4) particular companies. So, this Bill is so problematic because its creators and sponsors and supporters cannot even keep straight what it is focused on, what it is all about. So, to me, that shows there was not the proper planning and research and exploration before it was introduced. Even the most fundamental definitions that this Bill is based on, about pesticides and GMOs, they were not properly researched beforehand and yet it was introduced and several months later, the legality of the Bill is still being explored and thank goodness that our Councilmembers, there are some who are concerned about due diligence. Then the economic development fallout from this Bill. I just cannot see devastating the Westside without having actually properly explored a lot of these different issues. Where is the economic development safety net for a lot of people impacted by this Bill? So, this Bill was so poorly constructed and thought out that we as an island are supposed to rely on it? What I have observed that we can rely on this Bill for is the polarization and division in our community, creating a hysteria, and dividing our community through fear mongering and scare tactics and discrimination and I am really sad at the lack of *aloha* that has resulted from this Bill. So, I ask you please vote down this Bill and bring your community back together so that we can work together towards clear and real solutions. Thank you for your time.

Chair Furfaro:

Thank you.

Clerk:

Larry Schneider, followed by Mark Willman.

Chair Furfaro: Larry, you are going to have to come up to the microphone to address us. You have to come up to the microphone to address us, all of our sessions are documented. Thank you, Larry.

LARRY SCHNEIDER: My name is Larry Schneider. When I signed up I did not realize the regulatory differences in terms of questioning. Can I go in the next session?

Chair Furfaro:

Yes, you may.

Mr. Schneider:

Thank you.

Clerk:

Mark Willman, followed by Tai-Li Medeiros.

MARK WILLMAN: *Aloha* Kaua'i County Council. My name is Mark Willman and I am a resident of 'Ele'ele and I am a registered voter. I am here to represent myself and I oppose Bill No. 2491. In preparation for writing an editorial in the Garden Island Newspaper, I tried to choose a focus as to why I oppose this Bill. I found that I had twenty-three (23) different reasons why this Bill should be dropped. This is a bad Bill. The Bill is trying to do everything to give an image of protecting the public while in reality, it is dividing innocent Kauaians. In my opinion, it is using profiling as a tool to target specific people, or organizations, and not all people who use pesticides or GMOs. I suggest to you that all citizens that use pesticides and/or use GMOs should be included in the Bill or the Bill should be dropped. This Bill is a bad Bill. It has had a lot of aftereffects it has had on me. Now, I want to avoid organic food because now I am afraid of poison on them that is not regulated. I have learned if it is not certified organic, it is not safe for me to use or my family. I now have more trust in conventional foods than organic foods. This is collateral damage from the Bill. Other damage I have experienced is loss of faith in our local government. Our local government feels, or at least I feel is not being objective and the local paper does not seem to be objective either. The fruit of this Bill, even before it has passed, is bitter, it is sour, and that is ugly. I am here to suggest to you, the Kaua'i County Council, a solution to this Bill. I challenge you to contract with the Centers for Disease Control to do a five (5) year epidemiological study in addition to economic, statistically, behavior, and evaluative studies to find the facts of island human health as related to pesticide and GMO practices. Without the baseline date, we will never know the impact of this Bill if it is ever passed in any form that it will have on human health on the island. So, let us get the study going. If it reveals clear answers early in the study, like one (1) to two (2) years, lets us look at a remedy such as a Bill or some of its components. If data is inconclusive, let the study run for five (5) years and look at the facts. At that time, we can see what we as a community can do about improving our island. Let us work on putting the divide between blue and red back together again. Let us figure out together how we will pay for the study and get it going. In the meantime, while the study is going or being conducted, we can educate the island on how to grow their own food safely with or without pesticides. As I move about the island, as you do, I wonder if you see what I see. I see many individual homeowners and people spraying pesticides without glasses, without gloves, in slippers, and in shorts. Let us use this time as an opportunity to train the public on how to read the labels of what they buy in the local stores.

Clerk:

Three (3) minutes.

Chair Furfaro:  
have to summarize.

Larry, that is your three (3) minutes. You

Mr. Willman: Let me summarize. Let us organize a group of professionals who can answer the questions that the people have. Let us provide safety for all citizens. Thank you.

Chair Furfaro: Thank you

Clerk: Tai-Li Medeiros, followed by Samuel K. Fu

TAI-LI MEDERIOS: Good morning County Council. I am a resident of Kaua'i and speaking for myself as a resident. I cannot wait until Monday to find out where we stand, where this Bill takes us. Hopefully, the attacks that these "Pass the Bill supporters" do to us will stop, and the death threats to my friends will stop. I am just really tired of reading the nonsense in the newspaper, tired of the so called community radio station KKCR passing judgment on our testimonies. They do not even know us and they feel the need to put us on the radio and belittle us. Just so sick of everything that is going on that this Bill has caused. We come up here, we pour our hearts out to you, and tell our stories in hopes that you will listen, put the facts on the table, and make the best informed decision for all of us on the island. If there are kids in Kilauea who have bloody noses caused by spraying done on the Westside, I think we should bring it to the table and listen to their stories and figure out how to address the problem. I hope that we can kill the Bill and really address the real situations and the real problems and whatever health effects being caused by the seed companies. In my opinion, the best way to get rid of GMO is to boycott it. Stop using GMO. Anything you see with alcohol, ascorbic acid, aspartame, baking powder, salt, citric acid, glucose, fructose, just stop using it. Boycott it all, do not use it and then the seed company is not going to be here because there is no reason to grow GMO. Stop using ethanol, use horses that eat organic food instead of driving cars with ethanol. That is just my opinion how to get rid of GMOs instead of using this Bill as a tool. I know people always say that everything that we grow here does not come back to the island. I disagree. For instance, the corn that we grow here goes back to the Midwest and in turn they use it for feed, ethanol, paper goods, and toilet paper. I mean it all comes back. All of that is all derived from corn. I do not know if you have any questions about any products that we use corn for. I would be more than happy to provide that information to you folks. That is all I have to say. Thank you.

Chair Furfaro: Thank you. Next speaker.

SAMUEL K. FU: Good morning.

Chair Furfaro: Good morning.

Mr. Foo: My name is Samuel K. Fu, Sr. I am a resident of 'Ele'ele, Kaua'i for most of my life. Born and raised in the cane field days during this pesticide thing you folks are talking about I feel has no impact on this. Look at this boy. Does it look like I am unhealthy? I have three (3) sons that,

all healthy. When you folks bring these kinds of things up to us, it is "no-go". Me, people take care of everything. We are fine. Let them take care. Let the politicians take care. This time you folks come around, bring a Bill to me, it is a no-go. GMO is alright to eat what we want. You folks cannot tell us not to eat ice cream. You folks cannot tell me to tell my son, "Oh, son, you cannot have mac and cheese anymore because there is GMO in that product." How do we know? We do not know. People say we do not know what there is in the product, say it is GMO. There are a lot of things that I grew up on GMO because I lived with it for decades. Now, you folks are turning around and telling us pesticides GMO. That is two (2) different things. If you folks want to do the real thing, ban the damn Bill and start two (2) new different Bills. Plain and simple. It is not hard. It is easy. Pesticide, yes, we had things happen. But why do you not put the GMO? It is my right to eat what I want and I want things that I grew up on. Why? There is nothing wrong with me. There is nothing wrong with my kids. I lost my grandmother twenty (20) years ago. She lived in Hanapēpē Heights, eighty (80) years old. I was fortunate enough to see my grandfather's one hundredth birthday this year. We celebrated it. Now, you folks are telling us that there is something wrong with the cane field. Cane field was abundant in Hanapēpē Heights. Pesticides were right behind everybody's houses. They do not put up signs. That is how life is with us over here. You folks are trying to turn it around and make it like no GMOs. You cannot. It is my God given right as a taxpayer and a voter to eat what I want. You folks cannot tell me nothing. You folks go tell that, go tell all the smokers it is a genetically modified cigarette that states it is unhealthy for you, but yet you folks let it go. That is a fact. Alcohol, how much death caused by alcohol on the highways? I go in the field, I feel safer in the fields than I drive on the highways. Why? Because I know it is safe. I work in the fields and I played in the cane fields all my life. Now, you folks are telling me something is wrong with it. I do not see. I do not feel it. I only hear about all this BS that has been going on in the media saying that we are killing people. Alcohol kills people. Tobacco kills people. Pesticides does not...

Chair Furfaro:

Mr. Fu...

Clerk:

Three (3) minutes.

Mr. Fu:

...if it is used in the right way.

Chair Furfaro:  
can summarize.

Mr. Fu, that is your three (3) minutes. You

Mr. Fu: All I am going to tell you folks, re-look at this Bill because it is wrong. You folks are heading the right way, but it cannot be put together. Separate it, look at it, and that is all I am asking you guys. Think about what you folks are voting on. It will effect a lot of people, not only the corn companies. *Mahalo*.

Chair Furfaro: That summarizing our three (3) minutes testimony for Rule 13(e). We have one (1) spot left. Is there anyone who wants to speak?

Mr. Hooser: I am not sure if everybody understands that this segment is for the speaking without questions as you described and the next segment where the questions would be allowed would be held after the Executive Session is concluded which may be several hours from now. So, those that wanted to wait, I do not know if they are aware of that. No, that is not the case?

Chair Furfaro: No, that call is mine. I will allow people now and when we come out of session.

Mr. Hooser: Okay, that is fine.

Chair Furfaro: And that is determined by the Chair. I think Mr. Hoepfner, we have you now, Rich and then Larry, you wanted to move to this session, right?

RICH HOEPPNER: Hello Councilmembers. My name is Rich Hoepfner and basically I am testifying against Bill No. 2491 as it is written. I so much admire the beautiful Hawaiian language, but I have not had the ability to master it. There are a few words that I understand and *kuleana* is a meaningful term under the current conditions. When you campaign for your County Council seats and were elected, you took on with the oath, you took on the *kuleana* for protecting Kaua'i land, water, air, and health of both the environment and the citizens. The spraying by Monsanto, Syngenta, Pioneer, and others is polluting our land, air, water, and health of our island. The GMOs are not the problem. We have a choice on what we eat, but the people on the west end do not have a choice when there is all the spraying going on. They are going to be affected by that. You heard all of the testimony of the illness that doctors think is being caused by the spraying. The spraying is going to go on with the passage of Bill No. 2491. Until the EIS is completed, it could be two (2), three (3), four (4) years. If the spraying continues during that time, how many people will be inflicted with cancer in those years? How many pregnancies will go wrong in those next several years? How much more suffering will be experienced as they continue spraying while the EIS is being done? This Bill needs an amendment to stop the spraying immediately upon passage of the Bill. There has been enough evidence produced that there will be damage in the next few years while the EIS is being completed. Unless you fulfill your *kuleana* to protect Kaua'i land, water, air, and health by amending this Bill to stop the spraying while it is being done – I was going to make another statement, but I am going to avoid that. I just think this Bill has to be amended and stop the spraying. That is what is causing the problems, not the GMOs.

Chair Furfaro: Rich, I am going to ask members if they have questions for you now. Mr. Rapozo, the floor recognizes you.



Mr. Rapozo: Thank you, Mr. Chair. I have a question and you said that the evidence is clear that the damage will occur if they continue to spray. What evidence are you referring to?

Mr. Hoepfner: I listened to hours and hours and hours of testimony in July. All the doctors that testified, all the people that testified.

Mr. Rapozo: I heard that, too. I also heard testimony from experts saying that it does not and that is the dilemma I am in, is it is really simple to just take the testimony from the people that support your position. We as legislators must take all testimony, must take all studies.

Mr. Hoepfner: That is right.

Mr. Rapozo: The other question is, would you not agree that birth defects, there is clear and convincing evidence that birth defects are caused by certain drugs? In other words, mothers that are abusing drugs during their pregnancy, that is clear. There is no dispute that that in fact causes birth defects. Would you agree?

Mr. Hoepfner: Sure.

Mr. Rapozo: Do you believe that it is this County Council's authority to float a Bill, introduce a Bill next week saying that because of the dangers that oxycontin or maybe Vicodin, for that matter medical marijuana, anything regulated by the State and Federal government, do you believe had a we as this County Council, has the right to pass the law that says, "Effective immediately, doctors on Kaua'i will not be allowed to prescribe oxycontin on Kaua'i because we are concerned it causes birth defects in pregnant women?" Do you believe we have that jurisdiction?

Mr. Hoepfner: We are talking about – no, you do not have that jurisdiction.

Mr. Rapozo: So, what in your opinion, says we can in one regulated industry and we cannot in another?

Mr. Hoepfner: Right now, there are questions on both sides. You are right. There has been testimony on both sides and there is a big unknown and you have heard testimony from experts that say the spray is going into the waters, into the ocean, and it is creating problems. You have heard experts state that. If there are experts that it the other way, then we have a big unknown. If we have this big unknown, it should be stopped until there is a definite answer to it.

Mr. Rapozo: Maybe I misstated the question. The question was how can this Council have the authority to pass legislation that would

regulate a specific industry, especially if the unknown is there versus an industry that the effects are known, that it is clear? I guess it is a jurisdictional question for me. So, I want to know in your opinion because you are telling us to pass the Bill, but I do not believe this Council has the right. I am curious to know, why we would have the right in the pesticide regulation industry, but not in the drug industry, which is really the same. You have the drugs – hear the question out. I want to hear you answer. The Federal government determines – let us just look at oxycontin and I will use that because I got a disturbing call this morning about my cousin who is addicted. The Federal Drug Administration (FDA) determines what the safe level of oxy is, if there is any, but they claim there is, like pesticides. They delegate the authority to the States to say you regulate, you license the doctors, you license the pharmacies, and all of that. Why is it not proper for the Council to regulate that industry, but would be okay to regulate the pesticide industry which is the same way? The Federal government tests the pesticides, they come out with a label, and they say it is safe if you use it within these parameters. The State, you folks go out and enforce, regulate, license, and permit. But you are saying we can say no to the pesticides. We can ban spraying in a regulated industry, but we could not do it for the prescription drug industry, that is the question?

Mr. Hoepfner: Well, I think Councilmember Hooser gave that in the Bill. You have the State Constitution that says that you have the authority to regulate for the protection of the island.

Mr. Rapozo: So, you are saying that we could regulate the prescription drug industry?

Mr. Hoepfner: Well, that is something that is going to have to come up. I am not dealing with possible alternatives to stop war.

Mr. Rapozo: No, I am saying...

Mr. Hoepfner: I am talking about the Bill that is on the table right now. The Bill that is on the table right now has to do with pesticides that are being sprayed and you have heard the testimony that it is affecting our island.

Mr. Rapozo: I understand.

Mr. Hoepfner: And you have a *kuleana* to stop that and not let it go on for two (2) or three (3) years while the EIS is being done. Let the EIS find out what it is causing. That is what the EIS is for, but while the EIS is being done, it should be stopped to avoid any further problems.

Mr. Rapozo: Again, the question was about jurisdiction and it is clear that I am not going to debate you because you...

Mr. Hoepfner:

The Constitution gives you that.

Chair Furfaro: Excuse me, I am not going to allow you to debate that. I think this period of extended time is to ask questions when I heard the question posed, Rich.

Mr. Rapozo: I just did not hear the answer, but that is fine. Mr. Chair, I am done. Thank you.

Chair Furfaro: Rich, let me see if there are any more questions for you. Any more questions? If not, Rich, thank you for your testimony today. Larry, and Larry, you are our last speaker. So, everybody understands at 11:45 a.m. today we will no longer have a quorum here. The rules are interpreted by the Chair for the purpose of testimony. I am taking testimony now, and not later. Larry, you will have to introduce yourself and we will go from there.

Mr. Schneider: My name is Larry Schneider. I am a resident of Kilauea and a registered voter. There is no question that data exists that the pesticides are bad. The problem is that if you take individual studies, there is not enough numbers. When you gather collectively, the data into large groups, there is a process called the meta analysis in which you statistically analyze the data. There have been over thirteen thousand sixty-one (13,061) papers compiled in the meta analysis and the data is clear that pesticide exposure causes disease, statistically significant. Two (2) times the incidents of leukemia. It potentiates birth defects that you are talking about. Whether you take drugs or you do not take drugs, it potentiates the odds of the birth defects. It creates spontaneous abortions. It creates solid tumors. That data is real. It is present. You have it. The other piece of data which I think is interesting, is that in June the EPA which sets standards for safety and efficacy sent a letter to all of the manufacturers telling them that they were going to investigate new phenomena that they finally recognized called endocrine disruption in which at very low doses, the chemicals will mimic or block endocrine functions in the body that are hormonal functions like testosterone, estrogen, and thyroid which creates disease. If you block the thyroid or you block estrogen, you block testosterone, there are a lot of diseases that are potentiated by that including cancers. So, the evidence is real. The chemical companies have that. They testify that it is not problematic, they have had it, and they are supposed to address it. The bottom line here is that you are seven (7) normal citizens overwhelmed with information and misinformation. It is an enormous task and it is an enormous responsibility, but it is an enormous opportunity because a no vote maintains the status quo. A yes vote at least allows you to pause and make an intelligent pathway for the future and do what is right based on a greater time to understand the process and have your questions answered. Only one decision will take care of the land and the future of the people. It is your call, it is your legacy, and it is your opportunity. I think historically, Kauaians have been very proud of their ability to stand up for what they believe in and what is right. If the Queen or Eddie were faced with something like this, you

know what they would do. They would have the courage to stand up to do what is right to protect these people. The issue here is that there is innocent victims that have no choice and that is the fundamental difference between oxycontin and this. You are protecting the innocent.

Chair Furfaro: Excuse me, Larry, that is your first three (3) minutes. I am going to allow you a second three (3) minutes. Go right ahead.

Mr. Schneider: You have an opportunity to become icons, heroes, to do what is right. A no vote or even altering the Bill significantly appeals to one group and it is a financial group. You are talking about protecting people and the issue is, and I heard you ask the previous speaker.

Mr. Rapozo: And I am going to ask you the same question.

Mr. Schneider: Correct. I assumed so and look forward to it. The previous speaker was asked about the difference. There is significant differences here and it is potentiation and it is mixing metaphors if you try to think of it too simplistically. I will stop here to answers questions.

Chair Furfaro: Mr. Rapozo, I will give you the floor.

Mr. Rapozo: Thank you. Before I ask the question, I get the impress that the public thinks that we do not think pesticides are dangerous. Please, do not have that impression. I think there are definite concerns about the use of pesticides. It is. Anything with "cide" at that end of it is meant to kill. I understand that.

Mr. Schneider: Correct.

Mr. Rapozo: But for me it is a jurisdictional issue. I will ask you the question because we are not here to be icons and we are not elected to be icons, we are elected to be icons. We are elected to pass good legislation that in my opinion, is within the scope of our authority. That is where the debate is. But if you could expand on what is the difference between this industry and this Council having for some reason having the authority to basically legislate a regulated industry that is regulated by the Federal government and the State government, but not another because take the pesticide out and just utilize an industry like the prescription drug industry, or the liquor industry. I mean all of these things that are regulated by the Federal government and the State government. What gives this County the right to say we are going to control the use of pesticides on Kaua'i? Now, the prior speaker said because the Constitution says we can if it involves public health and safety. Well, drugs is public health and safety. Alcohol is public health and safety, smoke, and all those things. But what in your opinion, gives us the right to regulate this specific industry and not the prescription drug industry?

Mr. Schneider: Well, realistically if I answer that from a legal perspective, I am out of my field of expertise. This is just an assumption, I would assume that you probably do have the right to regulate those industries and that is probably not the question you are asking.

Mr. Rapozo: No, that is. That is the question.

Mr. Schneider: But you would have to talk to your Attorneys. You probably do have the right to regulate those industries. But a fundamental difference, and this is a philosophical difference and this is part of why I am passionate about this. The other issues that you understand, they are pretty clear. There is no mistake about it. But if you want to use your example even further, you talk about regulating the alcohol industry. I bet you probably could, but you also know that if you had a beer and you were consuming it and someone unknowingly put a roffie in it and drank it, that is a different issue than drinking beer. So, the problem is what is in it and what you know and what you are consenting to? A lot of this gets down to informed consent. Most things we do, we have some sort of informed consent or an informed expectation of the outcome. The difference in this industry is there is no informed consent. You are drinking a drink that you have no idea what the additives have been that are put in there and you are hoping that they are not problematic. The reality is that you do not know what they are doing. The reality is you do know that these pesticides are dangerous. If you do not know it, which would be hard to do with the amount of information that you are getting in testimony, you have to go to a level of understanding that is so far beyond. What I have heard in the testimony and part of what turned me to being objective to by passionately for the Bill is when experts are speaking, they speak the truth, but it is outside of their expertise. For example, a speaker will say there is nothing dangerous in my literature and his literature is based on genetically engineering, not health effects of pesticides. When you look at thirteen thousand (13,000) published...

Mr. Rapozo: Mr. Chair, I think it has gone beyond the question.

Mr. Schneider: It is the unknown.

Chair Furfaro: Excuse me. Are you satisfied?

Mr. Rapozo: Well, he answered. But there are others that may want to testify and I want to respect the time.

Chair Furfaro: Well, he is our last testifier. But, let me see. We might have others that have questions.

Mr. Rapozo: I am done. My question was specifically to jurisdiction and it has gone beyond that. So, I am okay. I am good. Thank you.

Chair Furfaro: Larry, let me ask you a couple questions if I may and I will see if others have questions. Do you have your testimony written out today?

Mr. Schneider: It is just scribbled out, but I have sent all the Councilmembers the articles and the data.

Chair Furfaro: I have seen the articles. I just wondered if you had written testimony today.

Mr. Schneider: No, but I could transcribe it and put it in writing.

Chair Furfaro: I have some interest in hearing what you have to say in a written form as I communicate to others at different political subdivisions who have different responsibilities than us. What is your field?

Mr. Schneider: My field?

Chair Furfaro: What is your skill? Are you an Attorney?

Mr. Schneider: No, a Physician.

Chair Furfaro: Physician, okay.

Mr. Schneider: I am an M.D. I do not practice anymore. I am an M.D. I was a surgeon. I trained at University of Michigan and then my residency was at University of Michigan in surgery. I did a post doctorate fellowship at University of California, Los Angeles. (UCLA) and I was an Associate Professor at UCLA, Assistant Professor, and then I taught at University of Arizona Medical School as an Associate Professor and I was a Clinical Professor at Arizona State. I went into private practice and then subsequently I created a medical device company and went into FDA process for approval of our device. So, I am familiar with the regulatory and science side.

Chair Furfaro: I have a first cousin who is at Arizona State and he is the Assistant Professor of Aerospace, Nicole Furfaro. No, I thought I would just ask since you mentioned that. Mr. Bynum, you have a question?

Mr. Bynum: Just real quickly. I understand this Bill is not about the safety of GMO foods, but it is about the agricultural practices of large pesticide users. You understand that?

Mr. Schneider: Absolutely. I was hoping that the data that I was speaking about nothing to do with genetically engineering. It was about pesticide, health effects of pesticides, and the saddest part is that the people that are at highest risk are the workers.

Mr. Bynum: Larry, I did not need a lengthy answer.

Mr. Schneider: It is the workers.

Chair Furfaro: I will remind all the members, if you have asked the question, you get a response, remind the speaker that you have been satisfied.

Mr. Bynum: So, my next question, your analogy that you were saying drug or alcohol abuse is a societal problem. But the user is choosing to do that even though they are breaking the law. Where pesticide exposure may happen without choice, right? It is imposed on individuals. Is that what you were...

Mr. Schneider: That is not what I intended to say. Do you want to know what I intended to say?

Mr. Bynum: If you can do it briefly.

Mr. Schneider: Briefly. Regulating beer consumption is something we all know. But if you are at a party and someone puts a roofie or a drug in your beer, that is a different issue than a consumption of beer because you are consuming beer with an unknown. It changes the paradigm when it is unknown and you are consuming it and it has health effects.

Mr. Bynum: And that is what prompted me to say this Bill is not about unknowingly consuming GM foods. That is a separate issue. So, thank you for that answer.

Mr. Schneider: It is the exposure of pesticides to people that have no choice and the potential effects.

Chair Furfaro: I want to remind all of you, please. I am giving you liberties, but you need to manage your questions. JoAnn, you have the floor.

Ms. Yukimura: Thank you. Larry, can you get me a copy of the letter that you referenced about EPA examining endocrine disruption?

Mr. Schneider: I sent it to you through your E-mail, but sometimes E-mails do not get read or deleted.

Ms. Yukimura:  
one hundred (100) a day.

Well, we are only getting about fifty (50) to

Mr. Schneider:  
E-mail or give you a hard copy?

Yes. Would you like me to resend it via

Ms. Yukimura:

Either way is fine.

Mr. Schneider:

I can give you my copy.

Ms. Yukimura:

Thank you very much.

Chair Furfaro:  
Please give it to the staff.

Could we make copies of your copy, please?

Mr. Schneider:

You want me to make?

Chair Furfaro: I want you to give your copy, the one copy that you promised to Councilmember Yukimura to our staff, and we will make copies and we will give it back to you.

Mr. Schneider:

Absolutely.

Chair Furfaro:

JoAnn, I am going to go on to Mr. Hooser.

Ms. Yukimura:

I am done.

Chair Furfaro:

Mr. Hooser, you have the floor.

Mr. Hooser: Just briefly, since the item on the agenda is a legal item and since the jurisdiction has been raised. Larry, I did not want to interrupt you while you are looking at your thing. But because we talked about jurisdiction and we talked about people's choice whether to be drinking or not drinking and doing drugs. This County Council, in the past has banned smoking in restaurants and I think it is going to consider banning smoking in cars when young children are there. It is also an area largely regulated by the Federal government and I guess States, too. But it is more a question of protecting not so much the smoker as the people around it. So, would that be a better example or an example of how you would perceive what we are trying to do here?

Mr. Schneider: Yes. Bill No. 2491 is a complex Bill that the analyses and ultimate decision-making has to be multi-factorial. When the question was raised about the regulating the other things, it is too simplistic. When you have smoking, the individual user has their personal effects, but there are significant effects to the people with unintended consumption. Pesticides, which are gas and volatilized are unintended outcomes. They are not even risks, they are



outcomes, and unintended, real dosages to people that are victims of that. So, that is a better analogy because smoking in a car with the windows closed, your infant consumes it. That is really bad for your infant, just like spraying a man who is going to have a child and is going to conceive in two (2) weeks. It is really bad for the infant regardless of their past.

Mr. Hooser: Thank you very much. Thank you, Chair.

Chair Furfaro: Larry, did our staff get your testimony and make copies?

Mr. Schneider: No. I am going to sort it out.

Chair Furfaro: Sort it out and we will take care it. Thank you very much. Is there anyone else that wants to testify? If not, I am going to close this portion for the public testimony.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Chair Furfaro: On that note, I am looking for a motion and a second to go into Executive Session.

Ms. Yukimura moved to convene in Executive Session for ES-661, seconded by Ms. Nakamura.

Mr. Rapozo: Do we need the Attorney to come up?

Chair Furfaro: He has been up to read the item.

Mr. Rapozo: He has?

Chair Furfaro: Yes, in the very beginning. Does everybody recall that the Attorney came up to read the item? If you would like him up again?

Mr. Rapozo: Oh, no. If he did it, that is fine.

Chair Furfaro: I have a motion by Councilmember Yukimura and second by Councilmember Nakamura to go in. As has been my practice, may I ask for a call vote to good into Executive Session?

The motion to convene in Executive Session was then put, and carried by the following vote:

FOR EXECUTIVE SESSION:	Nakamura, Rapozo, Yukimura,	
	Furfaro	TOTAL - 4,
AGAINST EXECUTIVE SESSION:	None	TOTAL - 0,
SILENT:	Bynum, Hooser	TOTAL - 2,
EXCUSED & NOT VOTING:	Kagawa	TOTAL - 1.

Chair Furfaro: May I ask you to take a roll call a second time because I only had three (3) yeses to go into Executive Session. There was no vote I heard from Mr. Bynum.

ALLISON S. ARAKAKI, Council Services Assistant I: I have four (4) ayes.

Mr. Bynum: We can do it again, I will vote.

Chair Furfaro: I would like to call it again, Mr. Clerk and if...

RICKY WATANABE, County Clerk: This is roll call to convene into Executive Session.

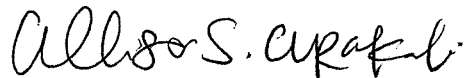
The motion to convene in Executive Session was then put, and carried by the following vote:

FOR EXECUTIVE SESSION:	Bynum, Nakamura,	
	Rapozo, Yukimura, Furfaro	TOTAL – 5,
AGAINST EXECUTIVE SESSION:	None	TOTAL – 0,
SILENT:	Hooser	TOTAL – 1,
EXCUSED & NOT VOTING:	Kagawa	TOTAL – 1.

Chair Furfaro: Let the record show that Mr. Hooser's silent vote goes with the majority of the motion. Thank you very much. It is just I had about three (3) silences in a row. Mr. Kagawa was not here, you did not vote, he did not vote, and so I did not know where we were. So, that might not have made up a majority. We are going to go into Executive Session in five (5) minutes. Members, five (5) minutes and all of you know, as I have said, the testimony interpretation is the Chair's. Contrary to what Mr. Hooser said, I am not coming back to take testimony because I will lose a quorum. I have asked the question again, there is no other people wanting to testify. We are done.

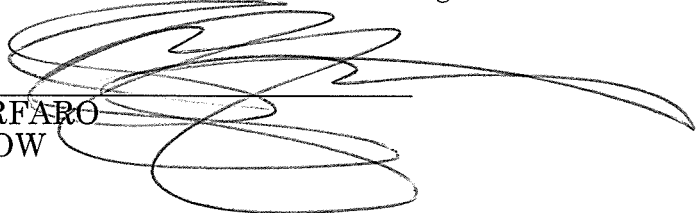
There being no further business, the meeting was adjourned at 11:37 a.m.

Respectfully submitted,



Allison S. Arakaki  
Council Services Assistant I

APPROVED at the Committee Meeting held on October 16, 2013:



JAY FURFARO  
Chair, COW